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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,321	06/20/2003	A.B. Hudson	34057	6166

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EXAMINER

PRATT, HELEN F

ART UNIT PAPER NUMBER

1761

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,321	Applicant(s) HUDSON, A.B.	
	Examiner Helen F. Pratt	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-^{2g}_n are rejected under 35 U.S.C. 103(a) as being unpatentable over Tayntor (76272) and Heck (3,704,204) and Coyner (2,182,171).

Tayntor discloses a medical compound containing bone dust (bone meal) and a palatability enhancer, which is caraway seed. Heck discloses a composition containing meat (palatability enhancer) and bone meal (col. 3, lines 60-65). Coyner discloses that it is known to feed calves a supplement made of bone meal and calcium (page 1, lines 40-50). Claims 1-3 differ from the reference in the particular amounts of ingredients. However, it is seen that it would have been within the skill of the ordinary worker to use particular amounts of ingredients in the composition. Therefore, it would have been obvious to use known ingredients as shown by the above ingredients to make the claimed compound.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claims 1-3 above, and further in view of Saebo (US 2004/0157932 A1).

Claim 4 further requires that the composition have an ingestible shell and claim 5 that it is biodegradable material and claim 6 that it is a gelatin material. Saebo discloses that it is known to use gel caps made from gelatin in animal nutrition (abstract and page 1, para.0007). A hard gelatin capsule is disclosed in para. 0040. The capsule is seen to have been biodegradable as no nutrients could have been used by the animal, if it were not. Therefore, it would have been obvious to make a shell of gelatin as disclosed by Saebo to encapsulate the composition of the above references as Saebo discloses that a gelatin material as an encapsulant for animal supplements.

Claims 7-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tayntor (76272) and Heck (3,704,204) and Coyner (2,182,171) as applied to claims 1-3 above, and further in view of Miller et al. (3,908,025) and Lasater et al. (5,200,218) and Nadeau (6,280,779).

Claim 7 further requires particular amounts of ingredients. Miller et al. disclose a composition containing bone meal and meat meal (col. 2, lines 66-70 and col. 3, lines 30-45). The meat (palatability enhancer) is used in amounts of 19-25% and meat by-products are used in amounts of 0-15%. Lasater et al. disclose bone meal used in various amounts (col. 4, lines 30-65). Nadeau et al. disclose protein (meat) in amounts of 42% and ash (bone meal) in the amounts of 7.82. The protein is 50% of the product and the ash is about 8 %. In diet B, the ash is 10%. The reference discloses the use of steamed bone meal, which is assumed to give the ash content (col. 5, lines 1-70 and col. 6, lines 1-15). Therefore, it would have been obvious to use known ingredients, which are known to be palatable to animals such as meat as a palatability enhancer in

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the claimed amounts as shown by Nadeau. The other references disclose that it is known to use meat and bone in animal foods.

Claims 8-12 further require various ratios of bone meal to palatability enhancer. However, as the reference to Nadeau et al. disclose the claimed amounts, it would have been obvious to vary the amounts for their known function of adding nutrition and flavor to a product.

The limitations of claims 13-18 have been disclosed above and are obvious for those reasons. Claim 13 further requires that the supplement is palatable to dogs and cats. However, the composition has been shown above, and dogs and cats are known to love meat. Therefore, it would have been obvious to make a supplement as claimed.

Claims 19-28 are to a method of giving an animal the claimed supplement. Nadeau et al. disclose a pet food, which contains protein (palatability enhancer) and ash (bone meal) in the claimed amounts. Diet C discloses steamed bone meal, which is assumed to be the source of ash (col.s 5, and 6, diets B, C and D). The further limitations as to amounts have been disclosed above and are obvious for those reasons.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP 12-7-04


HELEN PRATT
PRIMARY EXAMINER